



JEFFREY M. NELSON
Chief Legal Officer

Office of Regulatory Staff
1401 Main Street
Suite 900
Columbia, SC 29201
(803) 737-0800
ORS.SC.GOV

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VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Workshops Regarding the Public Service Commission's Formal Review of Its
Regulations Pursuant to S.C. Code Ann. Section 1-23-120(J)
S.C. Code Ann. Regs. 103-800 et seq.: Practice and Procedure
Docket No. 2020-247-A

Dear Ms. Boyd:

This letter is to inform the Public Service Commission ("Commission") of the position which the Office of Regulatory Staff ("ORS") intends to take at the Workshop in this docket scheduled for Friday, February 19th in regards to the comments filed by the South Carolina Department of Consumer Affairs ("SCDCA"), Dominion Energy South Carolina, Inc. ("Dominion"), Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively "Duke Energy").

South Carolina Department of Consumer Affairs

The SCDCA made five specific recommendations to the Commission. ORS supports the SCDCA's recommendations and agrees that a utility should be required to file substantive Direct testimony contemporaneous with any application which proposes an adjustment in rates, charges, terms and conditions. By statute the Commission must file a final order no later than six months after an application for an adjustment in rates is filed. The schedule in a rate case includes numerous requirements for both the Commission and Parties to the proceeding, including notice, pre-filed testimony deadlines, public hearings, merit hearings and proposed order due dates. These dates are typically compressed into about four to five months in order to allow the Commission time to consider, draft and approve a final order by the six-month deadline. It is also important to

allow time for discovery. Discovery enables the Parties to put forth reasonable and thoroughly vetted positions for Commission consideration. It is only with a sufficient allowance for discovery that Parties are able to present evidence to the Commission upon which the Commission will ultimately rely in its Order. The utility is the entity in the best position to determine the timing of application filing. The utility my plan for a rate case for a year and the planning involves the consideration of many variables. Once a utility files its Application, it is well aware of the various positions it has taken in the proceeding. Accordingly, the Utility is in a position to file direct testimony commensurate with the filing of the application. By requiring this initial filing of direct testimony by a utility, the Commission may provide interested parties additional time for audit, examination, discovery, testimony preparation and drafting of a proposed order.

ORS also supports the DCA's recommendation to require rate applications to include **final** versions of all supporting schedules and financial documentation. This is particularly true in light of the comments filed by Duke Energy which include a recommendation to eliminate surrebuttal testimony. Utilities have frequently "amended" the financial data, pro forma adjustments, and other supporting documentation after the utility files Direct testimony. ORS, must have sufficient time to audit, examine and investigate the rate application and the supporting documentation in order to fulfill the statutory duties assigned to ORS and present complete and accurate testimony to the Commission.

Dominion Energy South Carolina, Inc.

Dominion made several recommendations regarding discovery, pre-hearing motions, service between parties and virtual hearings. After reviewing these recommendations, ORS supports the changes proposed by Dominion.

Duke Energy

Duke Energy provided numerous recommendations. ORS is opposed to Duke Energy's recommendation that the Commission discontinue the practice of allowing parties to pre-file surrebuttal testimony. Intervenors in rate cases operate under a compressed schedule in an effort to timely process rate applications within the statutory six-month period. It has become common practice for large utilities to make significant adjustments to the rate application after the rate application has been filed and noticed to customers. Recently, a utility adjusted its application and, at the same time, objected to the production of discovery.¹ When this occurs, ORS and other intervenors have insufficient time to conduct discovery, perform an analysis of the data supporting the application and prepare pre-file testimony. Additionally, utilities have on occasion raised new arguments or taken new positions in their rebuttal testimony, and even during the course of a

¹ See Docket Nos. 2020-192-S, 2020-239-S and 2020-275-S

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hearing.² It is necessary that ORS be provided with the opportunity to file surrebuttal testimony in rate cases to ensure that the interests of the customers are represented.

If Duke Energy's recommendation to eliminate surrebuttal testimony is adopted, ORS recommends that utilities be required to withdraw and re-file the rate application, in accordance with the statutes, should the utility wish to update or change any information contained in the application. Without the above corresponding requirements, the customers and other parties are disadvantaged in the presentation of their positions to the Commission. If adopted, the Duke Energy proposal would essentially give utilities three bites of the apple (application, direct, rebuttal) while limiting ORS and other intervenors to just one opportunity to present evidence.

Duke Energy raises a similar recommendation, or objection to current regulations, in regard to Motions under S.C. Reg. 103-829. Duke states that "Rules like S.C. Code Ann. Regs. 103-829 and 103-833 lose their meaning when procedural schedules allow for testimony, such as surrebuttal testimony, to be filed too close to the start of the hearing." As with the previous recommendation, Duke Energy seems to believe that the only answer to this issue is to eliminate surrebuttal testimony.

ORS appreciates the opportunity to further address these recommendations in the workshop scheduled for February 19th.

Sincerely,

s/ Jeffrey M. Nelson

Jeffrey M. Nelson

cc: All Parties of Record (via e-mail)
David Butler, Esquire (via e-mail)

² See Docket No. 2017-370-E and Docket No. 2019-290-WS